

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR THE NEW CASTLE COUNTY

STATE OF DELAWARE)	
)	CR. A. NOS.: IN02-03-0668-R1;
v.)	IN02-03-0669-R1
)	
CORRIE JOYNER,)	DEF. I.D.: 0202014548
)	
Defendant.)	

Date Submitted: May 15, 2006
Date Decided: August 7, 2006

Upon Consideration of
Defendant's Pro Se Motion for Postconviction Relief
SUMMARILY DISMISSED in Part
and DENIED in Part.

ORDER

This 7th day of August, 2006, upon consideration of the Motion for Postconviction Relief brought by Defendant, Corrie Joyner, it appears to the Court that:

1. On February 14, 2003, Corrie Joyner ("Joyner") was convicted by a jury of Murder First Degree and Possession of a Firearm During the Commission of a Felony. On April 25, 2003, he was sentenced to life in prison for the Murder

conviction and three years for the Firearm conviction. Joyner appealed his conviction to the Delaware Supreme Court.¹ At some point thereafter, however, Joyner filed a *pro se* motion to dismiss his appeal with prejudice which the Supreme Court granted on September 26, 2003.²

2. On April 19, 2006, Joyner filed this *pro se* Motion for Postconviction Relief.³ He seeks relief based on the following grounds: (1) ineffective assistance of counsel during the pre-trial stages – Joyner claims counsel failed to investigate the case and prepare for trial, failed to investigate witnesses, failed to alert the Court of his psychiatric history, failed to facilitate a comprehensive psychiatric examination prior to trial, failed to submit a motion for an affirmative defense based on his psychiatric records, and failed to raise adequate issues at the suppression hearing; (2) ineffective assistance of counsel during the trial – Joyner claims his counsel failed to call critical witnesses to the stand, and failed to require the prosecution’s case to

¹ Docket Item “D.I.” 63.

² Prior to sentencing, Joyner submitted a letter to the Court requesting dismissal of counsel and the opportunity to proceed *pro se* for any postconviction appeals and for sentencing. The Court allowed Joyner to proceed *pro se* at sentencing but determined that the decision of whether to permit Joyner to proceed *pro se* on appeal should be left to the discretion of the Supreme Court. D.I. 54. On May 1, 2003, Joyner’s original counsel was re-appointed for purposes of the appellate proceedings to determine if Joyner could proceed *pro se*. D.I. 59. The Supreme Court entered an order on July 21, 2003 instructing this Court to make the *pro se* determination. D.I. 71. On remand, this Court found Joyner could proceed *pro se* for his appeal. D.I. 72.

³ D.I. 77.

survive the crucible of meaningful adversarial testing. Joyner also states these motions were not made previously because counsel misrepresented to him the facts of the case.⁴

3. Before addressing the merits of any postconviction relief claim, the Court first must determine whether the claims pass through the procedural filters of Superior Court Criminal Rule 61 (“Rule 61”).⁵ To protect the integrity of the procedural rules, the Court will not address the substantive aspects of the claims if Defendant’s claims are procedurally barred.⁶ Rule 61(i) imposes four procedural imperatives: 1) the motion must be filed within three years of a final order of conviction; 2) any basis for relief must have been asserted previously in any prior postconviction proceedings; 3) any basis for relief must have been asserted at trial or on direct appeal as required by the court rules; and 4) any basis for relief must not have been formerly adjudicated in any proceeding. Under Rule 61(i)(5), a defendant may avoid the first three of these procedural imperatives if the claim is jurisdictional or is a “colorable claim that there was a miscarriage of justice because of a

⁴ *Id.*

⁵ See *Younger v. State*, 580 A.2d 552, 554 (Del. 1990) (“It is well-settled that the Superior Court and this Court must address the procedural requirements of Rule 61 before considering the merits of this motion.”).

⁶ *Id.*

constitutional violation[.]”

4. In applying the procedural filters to this case, Joyner’s claim of ineffective assistance of counsel is not procedurally barred. His motion was filed within three years of sentencing, he has had no previous postconviction motions, and an ineffective assistance of counsel claim could not have been asserted at trial or on direct appeal, nor was such a claim adjudicated in any prior proceeding.⁷ Accordingly, the substantive merits of his motion will be addressed.

5. At the outset, the Court finds that a majority of Joyner’s claims are conclusory and unsubstantiated – specifically, the claims that counsel failed in the following capacities: investigating the case, preparing for trial, investigating witnesses, raising adequate issues at the suppression hearing, calling critical witness, and requiring the prosecutor’s case to survive the crucible of meaningful adversarial testing. Put simply, Joyner provides no meaningful support for such claims.⁸ Under settled Delaware case law, this Court will not consider claims of this type if they are

⁷ See *Wing v. State*, 690 A.2d 921, 923 (Del. 1996) (“This Court ... will not hear a claim of ineffective assistance of counsel raised for the first time on direct appeal.”); *Harris v. State*, 293 A.2d 291, 293 (Del. 1972) (citing *O’Connor v. Warden, Md. Penitentiary*, 253 A.2d 434, 594 (Md. App. 1969) (“[T]he allegation that trial counsel was incompetent need not be raised either at trial or on direct appeal in order to be available as a ground for relief ... under [a postconviction motion].”)); Supr. Ct. R. 8.

⁸ See D.I. 77.

conclusory or unsubstantiated.⁹ Therefore, because Joyner has failed to meet his burden of substantiating his specific allegations, the previously enumerated claims will not be considered by the court in this motion and are summarily dismissed.¹⁰ This leaves only the claims based on counsels' alleged failure to investigate Joyner's psychological history.

6. In *Strickland v. Washington*,¹¹ the United States Supreme Court established the guiding principles for assessing the validity of an ineffective assistance of counsel claim. To prevail, a movant must establish two factors: (1) "counsel's performance was deficient ... [in that] counsel made errors so serious that counsel was not

⁹ See *State v. Jordan*, 1994 WL 637299, at *3 (Del. Super. Ct. June 23, 1994) ("This Court need not address Postconviction Relief claims that are conclusory and unsubstantiated."); *Zimmerman v. State*, 1991 WL 190298, at *1 (Del. Super. Ct. Sept. 17, 1991) (citations omitted) ("This Court will not address Rule 61 claims that are conclusory and unsubstantiated."); *State v. Canon*, 1999 WL 1441997, at *3 (Del. Super. Ct. Dec. 9, 1999) (The Court found Defendant's claim, that counsel "failed to investigate the case," "repetitive, vague, and entirely conclusory, warranting summary dismissal."); *State v. Dividu*, 1992 WL 52348, at *2 (Del. Super. Ct. Feb. 12, 1992) ("[M]ovant has failed to provide any factual support for his perfunctory allegations. He does not state, for example, in what regard his counsel failed to prepare for trial[.] As Rule 61(b)(2) obviously contemplated, without this information I am unable to effectively evaluate the merit of movant's claims."); *State v. Brown*, 1998 WL 735880, at *3 (Del. Super. Ct. Aug. 20, 1998) ("As to [the] allegation ... that counsel failed to investigate an alibi witness, obtain an expert witness or subpoena defense witnesses, the Defendant, once again, merely makes a conclusory statement ... Conclusory claims raised in a defendant's motion for postconviction relief are insufficient to prove ineffective assistance of counsel and will not be addressed."); *State v. Davis*, 1999 WL 743588, at *8 (Del. Super. Ct. July 2, 1999) ("The argument for ineffective assistance for failure to develop further reasons to suppress his statements must fail ... [Defendant's] claim is conclusory and cannot be considered.").

¹⁰ See *Fletcher v. State*, 2006 WL 1237088, at *2 (Del. Super. Ct. May 9, 2006).

¹¹ 446 U.S. 668 (1984).

functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment;” and (2) “the deficient performance prejudiced the defense ... [because] counsel’s errors were so serious as to deprive the defendant of a fair trial[.]”¹² There is a “‘strong presumption that the representation was professionally reasonable’” and, therefore, the first prong of this test requires a movant to meet a high threshold to establish a violation of the “objective standard of reasonableness.”¹³ The second prong requires that the movant “affirmatively prove prejudice” by establishing to “a reasonable degree of probability that but for counsel’s errors, the outcome of the proceedings would have been different.”¹⁴

7. The Court finds that Joyner has failed to meet his burden of establishing both prongs of the *Strickland* test. The affidavits provided by Joyner’s former counsel clearly establish that their performance was neither deficient nor at any point

¹² *Id.* at 687.

¹³ *Fletcher*, 2006 WL 1237088, at *2 (quoting *State v. Flonnory*, 2003 WL 22455188, at *1 (Del. Super. Ct. Oct. 29, 2003)).

¹⁴ *Fletcher*, 2006 WL 1237088, at *2; *State v. Guinn*, 2006 WL 1454811, at *1 (Del. Super. Ct. May 25, 2006).

unreasonable.¹⁵ According to the affidavits, prior to Joyner's trial, a Psycho-forensic Evaluator conducted a psycho-social evaluation comprising of 11 interviews with Joyner, numerous interviews with Joyner's family and former probation officers, and an interview with a youth intervention specialist. The Evaluator also collected and reviewed Joyner's records from the Department of Services for Youth and Families. This evaluation was done in an effort to assess Joyner's family history, social history, and mental health history. Counsel either directed or participated in all of the interviews and reviewed all of Joyner's records.¹⁶

8. Counsel also retained a psychologist, selected for his expertise regarding the psychological pathology of young adults, to complete a "comprehensive psychological evaluation" of Joyner and render an opinion as to whether or not clinical findings would support a mental health defense recognized under Delaware law, and whether Joyner was competent to stand trial. After completing the

¹⁵ On April 26, 2006, the Court requested, pursuant to Del. Super. Ct. Crim. R. 61(g)(2), affidavits from Joyner's former counsel in relation to his allegations that he received ineffective assistance before and during the trial. The Court asked counsel to file an affidavit in response to the following claims: (1) counsel failed to alert the court of Joyner's psychological history; (2) counsel failed to provide a comprehensive psychiatric examination prior to trial; and (3) counsel failed to submit a motion for an affirmative defense based on Joyner's psychological condition. D.I. 79. The Court's letter, copied to Joyner, indicated that the balance of Joyner's ineffective assistance claims were conclusory and would not be considered. *Id.* Surprisingly, Joyner has not sought to amend his Petition. The Court received counsels' affidavits on May 16, 2006. D.I. 80.

¹⁶ *See* D.I. 80.

evaluation, the psychologist opined that he could not substantiate a finding that a mental health defense existed and that Joyner was competent to stand.¹⁷

9. Based on the information contained in counsels' affidavits, Joyner's claims are clearly without merit. A comprehensive psychiatric examination was, in fact, conducted by counsel prior to trial. Counsel cannot be faulted with failing to file a motion for an affirmative defense based on Joyner's psychological condition because the results of the examination revealed that a psychiatric defense could not be substantiated. Counsel also cannot be faulted for not informing the Court of Joyner's psychological history as the results of the evaluation appear to have been unremarkable, at least in the sense of supporting a valid legal defense.¹⁸ Counsels' performance was in no way deficient or unreasonable. Accordingly, Joyner's ineffective assistance of counsel claim must fail.

10. Based on the foregoing, Joyner's Motion for Postconviction Relief is **SUMMARILY DISMISSED in Part and DENIED in Part.**

¹⁷ *Id.*

¹⁸ See D.I. 15; D.I. 65. The Court notes that there was no room for a psychological mitigation presentation at sentencing; Joyner received the minimum mandatory sentences for both crimes of conviction.

IT IS SO ORDERED.

Judge Joseph R. Slights, III

Original to Prothonotary